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9 Attorneys for the United States of America

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION
13

14 UNITED STATES OF AMERICA,)
15 Plaintiff,)
16 v.)
17 2002 CHEVROLET TRAILBLAZER AND)
18 \$10,380 IN UNITED STATES CURRENCY,)
19 Defendants.)

No. C 04-2977 JSW

STIPULATION AND ORDER
AUTHORIZING AN INTERLOCUTORY
SALE OF DEFENDANT 2002
CHEVROLET TRAILBLAZER
AND EXPEDITED SETTLEMENT
OF GMAC'S CLAIM

1 The parties agree, subject to the Court's approval, that

2 1. The United States and claimants Kenneth Joseph Shepp and General Motors
3 Acceptance Corporation ("GMAC"), through their undersigned counsel, agree, subject to the
4 Court's approval, to an interlocutory sale of defendant 2002 Chevrolet Trailblazer, vehicle
5 identification number IGNDT13S222222842 ("Defendant Trailblazer"), by the United States
6 Marshals Service at the earliest possible date so as to satisfy the lien of GMAC and to allow the
7 substitution of the net proceeds from the sale as the *res* in this forfeiture action. The United
8 States reserves the right to void this expedited settlement agreement if, before payment of the
9 lien, the United States obtains new information indicating that the lienholder was not an
10 "innocent owner" or a "bona fide purchaser" which had no prior knowledge of the unlawful
11 activity alleged in the Complaint for Forfeiture filed in this action.

12 2. The owner of record of Defendant Trailblazer is claimant Kenneth Joseph Shepp
13 and GMAC has a lien recorded against Defendant Trailblazer in the amount of three thousand
14 three hundred thirty six dollars (\$3,336.00). A copy of the Certificat of Title showing the legal
15 and registered ownership of the vehicle is attached as Exhibit A. A copy of the motor vehicle
16 sales contract is attached as Exhibit B.

17 3. The United States and claimants Kenneth Joseph Shepp and General Motors
18 Acceptance Corporation agree to the interlocutory sale on the following terms:

- 19 a. Claimants Shepp and GMAC will cooperate in any way deemed necessary
20 by the United States Marshals Service in order for the United States
21 Marshals Service to sell Defendant Trailblazer using its normal, bimonthly
22 procedures for auctioning off vehicles.
- 23 b. As part of that cooperation, claimants Shepp and GMAC will provide any
24 and all documents and information necessary to enable the United States
25 Marshals Service to be able to convey a clear title to Defendant Trailblazer
26 to a *bona fide* purchaser for value at auction, and will do so within 10 days
27 of the entry of this stipulation as an order.

- 1 c. GMAC's lien will attach to the sale proceeds until such time as the lien is
2 satisfied by payment of \$3,336.00 to GMAC out of the proceeds.
- 3 d. After obtaining the necessary documentation, the United States Marshals
4 Service will sell Defendant Trailblazer using its normal procedure for
5 auctioning off vehicles after advertising their sale, and will use its best
6 efforts to auction defendant at the earliest possible date.
- 7 e. The "gross proceeds" of the sale of Defendant Trailblazer is the actual sale
8 price of Defendant Trailblazer at the auction. The "net proceeds" of the
9 sale of Defendant Trailblazer which are to be substituted as the *res* in this
10 case will be determined, following the sale of Defendant Trailblazer, by
11 deducting the amounts described below:
- 12 i. The United States Marshals Service will deduct the commission
13 which is required to sell Defendant Trailblazer which is 7.9% of
14 the gross proceeds of the sale; and
- 15 ii. The United States Marshals Service will pay three thousand three
16 hundred thirty six dollars (\$3,336.00) from the gross proceeds of
17 the sale to GMAC by a check made payable to General Motors
18 Acceptance Corporation which it sends to counsel for GMAC,
19 David E. Pinch, Severson & Werson, One Embarcadero Center,
20 Suite 2500, San Francisco, CA 94111.

21 4. The United States and claimants Shepp and GMAC agree that compliance with
22 the foregoing procedure will result in the full settlement and complete satisfaction of the claim of
23 claimant GMAC and claimant GMAC will file a full release of its claim with the Court within 10
24 days of the receipt of the check described in paragraph 3.d.ii above.

25 5. The United States and claimants Shepp and GMAC agree that the net proceeds of
26 the sale of Defendant Trailblazer shall be substituted as defendant *res* in this action and that the
27 United States Marshals Service shall retain custody of that substitute *res* pending resolution of
28

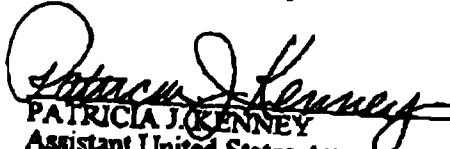
1 this civil forfeiture action and further order of the Court by depositing the net proceeds in the
2 appropriate asset forfeiture fund. The United States and claimant Shepp further agree that his
3 claim will be against the substitute res in the amount of the net proceeds of the sale of Defendant
4 Trailblazer as described above. The United States reserves the right to challenge the merits of
5 claimant Shepp's claim.

6 6. The United States and claimants agree that each party shall bear its and his own
7 attorneys' fees and any costs incurred in connection with this expedited settlement agreement and
8 interlocutory sale.

9
10 IT IS SO STIPULATED:

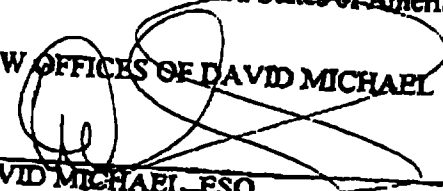
11
12 Dated: April 25, 2005

KEVIN V. RYAN
United States Attorney


PATRICIA J. KENNEY
Assistant United States Attorney
Attorneys for the United States of America

13
14
15
16 Dated: April 25, 2005

LAW OFFICES OF DAVID MICHAEL


DAVID MICHAEL, ESQ.
Attorney for Claimant Kenneth Joseph Shepp

17
18
19
20
21 Dated: April _____, 2005

SEVERSON & WERSON

DAVID E. PINCH
Attorneys for General Motors Acceptance Corp.

22
23
24 IT IS SO ORDERED ON THIS _____ DAY OF _____, 2005, PURSUANT TO THE
25 FOREGOING STIPULATION.

26
27
28
HONORABLE JEFFREY S. WHITE
United States District Judge

Stip & Order
C 04-2977 JSW

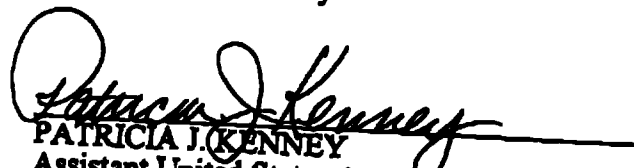
1 this civil forfeiture action and further order of the Court by depositing the net proceeds in the
2 appropriate asset forfeiture fund. The United States and claimant Shepp further agree that his
3 claim will be against the substitute *res* in the amount of the net proceeds of the sale of Defendant
4 Trailblazer as described above. The United States reserves the right to challenge the merits of
5 claimant Shepp's claim.

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7 attorneys' fees and any costs incurred in connection with this expedited settlement agreement and
8 interlocutory sale.

9
10 IT IS SO STIPULATED:

11
12 Dated: April 25, 2005

KEVIN V. RYAN
United States Attorney


PATRICIA J. KENNEY
Assistant United States Attorney
Attorneys for the United States of America

16 LAW OFFICES OF DAVID MICHAEL

17 Dated: April 26, 2005

18 DAVID MICHAEL, ESQ.
19 Attorney for Claimant Kenneth Joseph Shepp

20 SEVERSON & WERSON

21 Dated: April 26, 2005


22 DAVID E. PINCH
23 Attorneys for General Motors Acceptance Corp.

24 IT IS SO ORDERED ON THIS 28th DAY OF April, 2005, PURSUANT TO THE
25 FOREGOING STIPULATION.

26
27 /s/ Jeffrey S. White

28 HONORABLE JEFFREY S. WHITE
United States District Judge

Stip & Order
C 04-2977 JSW

EXHIBIT A

PRINT YOUR NAME IN CAPITAL LETTERS USING BLACK OR BLUE INK. INSTRUCTIONS ON REVERSE SIDE

ABCDEFGHIJ KLMNOPQRSTU VWXYZ 0123456789

NOTICE OF RELEASE OF LIABILITY
MAIL THIS FORM TO DMV

REGISTRATION NUMBER: 16NDT13S222222842

YEAR: 2002

MAKE: CHEV

MODEL: 4VMK234

PLATE NUMBER: 4VMK234

REGISTRATION DATE: 12/20/2002

ISSUE DATE: 01/24/02

ODOMETER DATE: 12/19/2001

ODOMETER READING: 307 MI

ACTUAL MILEAGE: 307 MI

REGISTRATION

DO NOT DETACH UNTIL SOLD

STATE OF CALIFORNIA

CERTIFICATE OF TITLE

67102011401

AUTOMOBILE

VEHICLE ID NUMBER: 16NDT13S222222842

YEAR: 2002

MODEL: CHEV

PLATE NUMBER: 4VMK234

REGISTRATION EXPIRATION DATE: 12/20/2002

ISSUE DATE: 01/24/02

ODOMETER DATE: 12/19/2001

ODOMETER READING: 307 MI

ACTUAL MILEAGE: 307 MI

REGISTERED OWNER(S): SHEPP KENNETH JOSEPH JR
3489 GOODMAN RANCH RD
GARBERVILLE CA 95542

I certify under penalty of perjury under the laws of the State of California, that THE SIGNATURE(S) BELOW RELEASES INTEREST IN THE VEHICLE.

1a. DATE: X SIGNATURE OF REGISTERED OWNER

1b. DATE: X SIGNATURE OF REGISTERED OWNER

Federal and State law requires that you state the mileage upon transfer of ownership. Failure to complete or providing a false statement may result in fines and/or imprisonment.

The odometer now reads (no tenths), miles and to the best of my knowledge reflects the actual mileage unless one of the following statements is checked

WARNING: ☐ Odometer reading is not the actual mileage ☐ Mileage exceeds the odometer mechanical limits

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATE: X TRANSFEROR/SELLER SIGNATURE(S): X

PRINTED NAME OF AGENT SIGNING FOR A COMPANY: X

IMPORTANT READ CAREFULLY

Any change of Lienholder (holder of security interest) must be reported to the Department of Motor Vehicles within 10 days

LIENHOLDER(S): GNAC
PO BOX 8128
COCKEYSVILLE
MD 21030

2 X
Signature releases interest in vehicle (Company names must be countersigned)
Release Date: CA59739830
019801 REG 17.30 (REV 2/98)

KEEP IN A SAFE PLACE - VOID IF ALTERED

EXHIBIT B

[illegible]

OTHER IMPORTANT AGREEMENTS

- 1. We will figure Finance Charge.** We will figure Finance Charge on a daily basis at the Annual Percentage Rate on the unpaid part of the Amount Financed.
- 2. How we will apply payments.** We may apply each payment to the earned and unpaid part of the Finance Charge, to the unpaid part of the Amount Financed and to other amounts you owe under the contract in any order we choose.
- 3. How late payments or early payments change what you must pay.** We based the Finance Charge, Total of Payments, and Total Sale Price shown on the front on the assumption that you will make every payment on the day it is due. Your Finance Charge, Total of Payments, and Total Sale Price will be more if you pay late and less if you pay early. Changes may take the form of a larger or smaller final payment or, at our option, more or fewer payments of the same amount as your scheduled payment with a smaller final payment. We will send you a notice telling you about these changes before the final scheduled payment is due.
- 4. You may prepay.** You may prepay all or part of the unpaid part of the Amount Financed at any time. If you do so, you must pay the earned and unpaid part of the Finance Charge and all other amounts due up to the date of your payment. As of the date of your payment, if the maximum finance charge is greater than the earned Finance Charge, you may be charged the difference; the maximum finance charge is as follows: (1) \$25 if the original Amount Financed does not exceed \$1,000, (2) \$50 if the original Amount Financed is more than \$1,000 but not more than \$2,000, or (3) \$75 if the original Amount Financed is more than \$2,000.

2. YOUR OTHER PROMISES TO US

- a. If the vehicle is damaged, destroyed, or missing.** You agree to pay us all you owe under the contract even if the vehicle is damaged, destroyed, or missing.
- b. Using the vehicle.** You agree not to remove the vehicle from the U.S. or Canada, or to sell, rent, lease, or transfer any interest in the vehicle or the contract without our written permission. You agree not to expose the vehicle to seizure, confiscation, or involuntary transfer. If we pay any repair bills, storage bills, taxes, fines, or charges on the vehicle, you agree to repay the amount when we ask for it.
- c. Security interest.** You give us a security interest in:
- The vehicle and all parts or goods installed on it;
 - All money or goods received (proceeds) for the vehicle;
 - All insurance or service or gap contracts we finance for you; and
 - All proceeds from insurance or service or gap contracts we finance for you. This includes any refunds or premiums.
- The second payment of all you owe on the contract is also secured by other agreements in this contract as we later allow. You will make sure the title shows our security interest (just) in the vehicle.
- d. Insurance you must have on the vehicle.** You agree to have physical damage insurance covering loss of or damage to the vehicle for the term of the contract. The insurance must cover our interest in the vehicle. If you do not have that insurance, we may, if we choose, buy physical damage insurance. If we decide to buy physical damage insurance, we may either buy insurance that covers your interest and our interest in the vehicle, or buy insurance that covers only our interest. If we buy either type of insurance, we will tell you which type and the charge you must pay. The charge will be the premium for the insurance and a finance charge at the Annual Percentage Rate shown on the front of the contract. If the vehicle is lost or damaged, you agree that we may use any insurance settlement to reduce what you owe or repair the vehicle.
- e. What happens to returned insurance or service or gap contracts.** If we obtain a refund on insurance or service or gap contracts, we will subtract the refund from what you owe.

3. IF YOU PAY LATE OR BREAK YOUR OTHER PROMISES

- a. You may owe late charges.** You will pay a late charge on each late payment as shown on the front. Acceptance of a late payment or late charge does not excuse your late payment or mean that you may keep making late payments. If you pay late, we may also take the steps described below.
- b. You may have to pay all you owe at once.** If you break your promises (default), we may demand that you pay all you owe on this contract at once, subject to any right the law gives you to renege the contract. Default means:
- You do not pay any payment on time;
 - You start a proceeding in bankruptcy or one is started against you or your property; or
 - You break any agreement in this contract.
- The amount you will owe will be the unpaid part of the Amount Financed plus the earned and unpaid part of the Finance Charge, any late charges, and any amounts due because you defaulted.
- c. You may have to pay collection costs.** You will pay our reasonable costs to collect what you owe, including attorney fees, court costs, collection agency fees, and fees paid for other reasonable collection efforts. You agree to pay a charge not to exceed \$15 if any check you give to us is dishonored.
- d. We may take the vehicle from you.** If you default, we may take (repossess) the vehicle from you if we do so peacefully. If your vehicle has an electronic tracking device, you agree that we may use the device to find the vehicle. If we take the vehicle, any accessories, equipment, and replacement parts will stay with the vehicle. If any personal items are in the vehicle, we may store them for you at your expense. If you do not ask for these items back, we may dispose of them as the law allows.
- e. How you can get the vehicle back if we take it.** If we repossess the vehicle, you may pay to get it back. You may redeem the vehicle by paying all you owe, or you may have the right to renege the contract and redeem the vehicle by paying past due payments and any late charges, plus the cost of storage, under taking other action to cure the default. We will provide you all notices required by law to tell you when and how much to pay and/or what action you must take to redeem the vehicle.

- f. We will send you a written notice of sale.** We will apply the money you pay to the amount you owe, to the extent you allow. After expenses are taken, we pay as a direct result of taking the vehicle, holding it, preparing it for sale, and selling it. Attorney fees and court costs the law permits are also allowed expenses. If any money is left (surplus), we will pay it to you unless the law requires us to pay it to someone else. If money from the sale is not enough to pay the amount you owe, you must pay the rest to us. If you do not pay the amount when we ask, we may charge you interest at the Annual Percentage Rate shown on the face of this contract, not to exceed the highest rate permitted by law, until you pay.
- g. What we may do about optional insurance or service or gap contracts.** The contract may contain charges for optional insurance or service or gap contracts. If we repossess the vehicle, you agree that we may claim benefits under these contracts and cancel them to obtain refunds of unearned charges to reduce what you owe or repair the vehicle.

4. WARRANTIES SELLER DISCLAIMS

If you do not get a written warranty, and the Seller does not enter into a service contract within 90 days from the date of this contract, the Seller makes no warranties, express or implied, on the vehicle, and there will be no implied warranties of merchantability or of fitness for a particular purpose. This provision does not affect any warranties covering the vehicle that the vehicle manufacturer may provide.

5. Used Car Buyers Guide. The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale.

Spanish Translations. Solo para compradores de vehículos usados. La información que ve en el formulario de la ventanilla para este vehículo forma parte del presente contrato. La información del formulario de la ventanilla deja sin efecto toda disposición en contrario contenida en el contrato de venta.

6. Applicable Law

Federal law and California law apply to this contract. If any part of the contract is not valid, all other parts stay valid. We may delay or refuse from enforcing any of our rights under this contract without losing them. For example, we may extend the time for making some payments without extending the time for making others.

7. Warranties of Buyer. You promise you have given true and correct information in your application for credit, and you have no knowledge that will make that information untrue in the future. We have relied on the truth and accuracy of that information in entering into this contract. Upon request, you will provide us with documents and other information necessary to verify any item contained in your credit application. You promise you have given a true payoff amount on any vehicle traded in. If that payoff is more than the amount shown in item 8.b. on the front of the contract, you must pay us the excess upon demand.

You waive the provisions of Calif. Vehicle Code Section 1680.21 and authorize the California Department of Motor Vehicles to furnish your customer address to us.

CREDIT DISABILITY INSURANCE NOTICE

If you become disabled, you must tell us right away. (You are allowed to send the information to the same address to which you are normally required to send your payments, unless a different address or telephone number is given to you in writing by us as the location where we would like to be notified.) We will visit where to get claim forms. You must send in the completed form to the insurance company as soon as possible and tell us as soon as you do.

If your disability insurance covers all of your missed payments, we CANNOT TRY TO COLLECT WHAT YOU OWE ON FORECLOSE UPON OR REPOSSESS ANY COLLATERAL UNTIL THREE CALENDAR MONTHS AFTER YOUR last missed payment is due or until the insurance company pays or rejects your claim, whichever comes first. We can, however, try to collect, foreclose, or repossess if you have any money due and owing us or are otherwise in default when your disability claim is made or if a senior mortgage or lien holder is foreclosing.

If the insurance company pays the claim within the three calendar months, we must accept the money as though you paid on time. If the insurance company rejects the claim within the three calendar months or accepts the claim within the three calendar months on a partial disability and pays less than for a total disability, you will have 30 days from the date of the rejection or the acceptance of the partial disability claim to send to pay past due payments, or the difference between the past due payments and what the insurance company pays for the partial disability, plus late charges. You can contact us, and we will tell you how much you owe. After that time, we can take action to collect or foreclose or repossess any collateral you may have given.

If the insurance company accepts your claim but requires that you send in additional funds to remain eligible for continued payments, you should send in these completed additional funds no later than required. If you do not send in these funds on time, the insurance company may stop paying, and we will then be able to take action to collect or foreclose or repossess any collateral you may have given.

Repossession Rights

- a. Seller agrees to deliver the vehicle to you on the date this contract is signed by Seller and you.** You understand that it may take a few days for Seller to ready your credit and assign the contract. You agree that if Seller is unable to assign the contract to any one of the financial institutions with whom Seller regularly does business under an assignment acceptable to Seller, Seller may rescind (cancel) the contract.
- b. Seller shall give you written notice (or in any other manner in which actual notice is given to you) within 10 days of the date the contract is signed if Seller elects to rescind.** Upon receipt of such notice, you must immediately return the vehicle to Seller in the same condition as when sold, reasonable wear and tear excepted. Seller will give back to you all consideration received by Seller, including any trade-in vehicle.
- c. If you do not immediately return the vehicle, you shall be liable for all expenses incurred by Seller in taking the vehicle from you, including reasonable attorney's fees.**
- d. While the vehicle is in your possession, all terms of the contract, including those relating to use of the vehicle and insurance for the vehicle, shall be in full force and you shall assume all risk of loss or damage to the vehicle. You must pay all reasonable costs for repair of any damage to the vehicle until the vehicle is returned to Seller.**

NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS THEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

The preceding NOTICE applies only if the "personal, family or household" box in the "Primary Use for Which Purchased" section of this contract is checked. In all other cases, Buyer will not assert against any subsequent holder or assignee of this contract any claims or defenses the Buyer (debtor) may have against the Seller, or against the manufacturer of the vehicle or equipment obtained under this contract.

Seller assigns its interest in the contract to		(Assigned to) (address)	
GMA C		1000 10th St, San Jose, CA 95128	
1000 10th St, San Jose, CA 95128		1000 10th St, San Jose, CA 95128	
1000 10th St, San Jose, CA 95128		1000 10th St, San Jose, CA 95128	